
Submission to the Australian Energy Regulator's Draft Decision and Ausgrid's Revised Regulatory Proposal

*Ausgrid Electricity Distribution Determination 1 July 2024 to 30
June 2029*

Consumer Challenge Panel
Sub-panel 26

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[Acknowledgement of Country](#)

We acknowledge the Traditional Custodians of the various lands on which NSW and ACT electricity networks own and operate their networks and facilities. We honour the customs and traditions and special relationship of those Traditional Custodians with the land as well as those lands where this report is being prepared. We respect the elders of these nations, past, present and emerging.

[Confidentiality](#)

To the best of our knowledge this report does not present any confidential information.

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1. Executive Summary

Ausgrid's Revised Proposal seeks \$9,616 million (nominal, unsmoothed) revenue for the 2024-29 period. This is \$98 million (1%) lower than Ausgrid's Initial Proposal and \$32 million (0.3%) higher than the AER's Draft Decision. Ausgrid's Revised Proposal was informed by a range of engagement activities that assessed customer priorities, with a focus on new areas of expenditure. The Consumer Challenge Panel 26 (CCP26) observed a sample of these engagement activities. This advice presents our views on the effectiveness of this engagement and how customer preferences are reflected in the development of the Revised Proposal, as well as our views on a subset of consumer issues arising from the Draft Decision and Revised Proposal.

Ausgrid continued to embrace the expectations of the Better Resets Handbook in its post-lodgement engagement. This engagement was successful in drawing out customer preferences, particularly in light of evolving community expectations in the net-zero transition and the cost-of-living pressures facing its customers. The engagement models developed during the pre-lodgement phase continued to serve Ausgrid well in the post-lodgement period:

- The Reset Customer Panel (RCP) maintained its strong partnership with Ausgrid, and the panel members brought a customer centric challenge to the wide range of issues they considered, many in very great depth, as evidenced in the RCP's independent report.
- The Voice of Community (VoC) panel was re-established in 2023, with a combination of new and ongoing participants, and the 100-person panel played a critical role in identifying the ongoing priorities of Ausgrid's diverse customer base during a series of open and constructive online and face-to-face sessions. The 2023 VoC panel was well designed and executed and delivered robust insights into Ausgrid's customer preferences.
- The Pricing Working Group (PWG) continued in its role undertaking a robust consideration of the tariff issues arising from the Draft Decision.
- Ausgrid executed its Local Government Area (LGA) resilience engagement strategy in Port Stephens, the Central Coast and Lake Macquarie. This engagement brought rich, local insights into the challenges of preparing for and responding to the forecast increase in extreme weather events in Ausgrid's network.

In its October 2023 session, the VoC Panel converged on the view that affordability concerns have increased since Ausgrid's Initial Proposal and that while the new and ongoing priorities were unchanged – and still important – there was an expectation that Ausgrid would need to further moderate its impact on electricity bills.

Ausgrid responded to the community's concerns in its Revised Proposal by proposing additional affordability measures. The most material of these measures is a proposal to treat Software as a Service (SaaS) as capex, rather than opex, which means the costs are recovered over 5-15 years rather than immediately. Ausgrid states this will reduce customers' bills by \$2.30 per annum on average in the regulatory period and would benefit customers at a time when cost of living is significantly affecting customers.¹ This proposal was subject to engagement with the RCP, who have expressed their support for it.² This proposal was raised very late in the regulatory process and raises complex issues, particularly as other DNSPs are moving to treating SaaS as opex in accordance with regulatory guidance. Ausgrid acknowledges that it may be difficult for the AER to implement its proposed approach³. We consider that further analysis is required to understand potential affordability impacts in future regulatory periods, as well as any unintended impacts on the

¹ Ausgrid Revised Proposal, p27, p9

² Reset Customer Panel report, p3

³ Ausgrid Revised Proposal, Attachment 6.1 Proposed Operating Expenditure, p17

regulatory system. In order for the AER to accept this proposal, the known affordability benefits should outweigh these potential costs.

The Draft Decision did not accept \$528 million of Ausgrid's initial proposed expenditure on new and emerging areas of expenditure including Customer Energy Resources (CER) integration, climate resilience, cyber security and innovation. Ausgrid repropose much of this expenditure albeit with significant rationalisation in response to issues raised in the Draft Decision.

As highlighted above, Ausgrid's customer engagement has revealed that there is community support for investments that support the net-zero transition and maintain security of supply. Innovation, for example, continues to be an area that is important to customers in the context of the energy transition. The CCP26 does, however, have ongoing concerns about the appropriateness of Ausgrid's repropose climate resilience expenditure. Our previous advice highlighted factors that may have adversely influenced the LGA resilience engagement outcomes. We consider these factors should be given weight in assessing Ausgrid's repropose resilience expenditure.

The Revised Proposal includes some new areas of expenditure: an expanded Heat Resilience project (\$7.75 million totex) and a new Wallumatta sub-station Contingent Project (\$128 million). The relatively late introduction of these expenditure proposals has impacted the quality of engagement and left some issues unresolved. For example, Ausgrid did not engage with the RCP about the proposal to treat the proposed new Wallumatta sub-station as a contingent project, and the triggers for this proposed contingent project have also not been the subject of engagement or public scrutiny. The Heat Resilience project received support from the VoC panel, but the RCP expresses support for a more modest program⁴. Ausgrid identifies a range of considerations that remain to be worked through in its Heat Resilience project⁵.

The Revised Proposal also includes a range of updates and adjustments to expenditure accepted in the Draft Decision, for example an additional \$39 million for repex based on updates to modelling. We are not able to comment on these as we did not observe substantive engagement on these matters. We note that Endeavour Energy, by contrast, has adopted an approach in its Revised Proposal of only adjusting forecast expenditure to account for the latest available information and unit costs where this results in a forecast that is equal to or less than the AER's Draft Decision⁶.

Finally, the CCP has made some systemic observations of the regulatory process drawn from our work in the 2024-2029 NSW/ACT regulatory resets. This includes the importance of ongoing DNSP engagement, the need for a clearer shared understanding of network resilience, the desirability of reviewing the Better Resets Handbook and implementing future-proofed flexibility into the regulatory process.

2. Background

The role of the Consumer Challenge Panel (**CCP**) is to advise the AER on the effectiveness of network businesses' engagement activities with their customers and how this is reflected in the development of the proposals, and whether regulatory proposals are in the long-term interests of consumers.

The CCP sub-panel 26 (**CCP26**) was appointed in November 2021. This is the third advice provided by the CCP26 relating to the Ausgrid Electricity Distribution Determination 1 July 2024 to 30 June 2029.

⁴ RCP Independent Report to Ausgrid Revised Proposal, p26

⁵ Ausgrid Revised Proposal, Climate Resilience Business Case, p59

⁶ Endeavour Energy, Revised Proposal, p13

The CCP26 provided an advice in response to the AER's Issues Paper in May 2023 and an addendum advice responding to Ausgrid's Resilience Business Case in August 2023.

The CCP26 observed a sample of Ausgrid's post-lodgement reset engagement activities (see Appendix 1). The CCP26 has previously provided its views on the effectiveness of Ausgrid's engagement activities which informed Ausgrid's Initial Proposal and its Resilience Business Case, and this advice reflects primarily on the balance of Ausgrid's engagement activities.

The CCP26's advice is guided by the expectations set out in the AER's *Better Resets Handbook – Towards Consumer Centric Network Proposals* (**Better Resets Handbook**).

Context

In our response to the Initial Proposal and AER Issues Paper, we summarised a number of contextual matters that have been pertinent in the development of the regulatory proposal. These factors remain relevant and are not repeated here. Each of the NSW and ACT distribution network business have also referred to these contextual matters.

There are two more factors that warrant mention as additional contextual matters particularly relevant to the development of the Revised Revenue Proposal.

1. Affordability concerns have become more pronounced and can be summarised with reference to the AER's Default Market Offer⁷ (DMO) decision that was released on 25th May 2023 for the twelve months July 2023 to June 2024. The AER summarised the decision as:

“From 1 July 2023 residential customers on standard retail plans will see price increases of 20.8% to 23.9% without controlled load, depending on their region, and between 19.6% to 24.9% with controlled load, depending on their region.”

While not all energy bills will rise by the full amount allowed by the DMO, many will. Energy affordability and cost of living concerns were raised in all post-lodgement engagement processes.

2. On 30th August the AEMC released their Final Report of the Review of The Regulatory Framework for Metering Services.⁸ The first recommendation of the review states:

“The Commission recommends a target of universal uptake of smart meters by 2030 in NEM jurisdictions. Distribution network service providers (DNSPs) would develop an annual schedule to retire legacy accumulation and manually read meters. Retailers would then be responsible for installing smart meters at these sites over the five-year acceleration period.”

The accelerated installation of smart meters with a 2030 target date impacts all electricity distribution businesses and their customers.

⁷ [AER releases final determination for 2023–24 Default Market Offer | Australian Energy Regulator \(AER\)](#)

⁸ AEMC, Final Report Review of The Regulatory Framework for Metering Services, pi

3. Effectiveness of Ausgrid's post-lodgement engagement

Reset Customer Panel

The CCP26 observed that Ausgrid continued its strong partnership approach with the RCP as it developed its Revised Proposal. The RCP continued to bring a customer-centric focus to Ausgrid's deliberations on its Revised Proposal.

The comprehensive and frank report produced by the RCP provides transparency about the role played by the RCP during the post-lodgement period and the influence the RCP has had in shaping the Revised Proposal. The substantial report provided by the RCP also demonstrates the detailed consideration the RCP has given to many of the substantive issues raised by the AER's Draft Decision.

Ausgrid had a large number of issues to address in a short timeframe following the Draft Decision. This included significant further analysis responding to the Draft Decision on CER, resilience and cybersecurity, new expenditure proposals on heat resilience and the Wallumatta sub-station, incorporating the AEMC's metering decision and considering additional affordability measures. Ausgrid appears to have carefully engaged with the RCP on most of these matters. For example, Ausgrid's approach to metering was given detailed consideration by the RCP. However, some matters were not subject to detailed consultation with the RCP, including the treatment of Wallumatta STS as a contingent project.⁹ We encourage the AER to carefully consider the triggers and eligibility of the Wallumatta STS as a contingent project as it was not discussed with the RCP or during any other engagement we observed.

The RCP also continued to play a key role in collaborating with Ausgrid to shape Ausgrid's post-lodgement customer engagement. The RCP Report outlines various ways it continued to co-design Ausgrid's customer engagement and ensure customer preferences identified through engagement activities were incorporated in the Revised Proposal.

Voice of Community Panel

Ausgrid formed a new Voice of Community (VoC) panel in 2023 that combined participants from its previous (2022) VoC panel and people who were new to the reset process. The 101 person VoC panel included a wide diversity of customer perspectives. The VoC panel was used to test the community views on a range of issues in the post-lodgement period including resilience, affordability, CSIS and overall priorities.

The VoC sessions provided good opportunities for participants to reflect on the content and express their views. Participants understood that their task was to consider wider customer perspectives beyond their own personal experience. We observed a deeply respectful engagement process that enabled a diversity of views to emerge.

A key topic of engagement for the VoC was affordability. This engagement was well informed, respectfully undertaken and enabled a diversity of views to emerge. In the October session, the VoC converged on the view that affordability concerns have increased since Ausgrid's initial proposal and that while the new and ongoing priorities were unchanged – and still important – there was an expectation that Ausgrid would need to moderate its impact on electricity bills.

⁹ RCP Independent Report to Ausgrid Revised Proposal, p19. The RCP has indicated that they plan to provide a further submission to the AER in January 2024 on a number of outstanding issues.

How comfortable are you with the overall proposal and the associated bill impact?

The participant's responses are included below, followed by the reasons for choosing their level from very comfortable to very uncomfortable:



Endeavour Energy’s Customer Panel 4th wave, conducted in June 2023, also reported an elevated concern about cost-of-living pressures and a stronger focus on affordability.¹⁰

Ausgrid also used the October VoC Panel to seek participants’ views on a new proposed heat resilience project. The VoC Panel received a presentation by Professor Pfautsch from the University of Sydney on urban cooling and the role that Aerial Bundled Cabling (ABC) can play in cooling cities. This was the first time that Ausgrid has utilised an independent expert to present to the VoC and it was well received by participants. The RCP, however, has expressed a concern that Professor Pfautsch “may have introduced an unwelcome bias in favour of Ausgrid’s involvement in supporting tree canopy although we [the RCP] cannot say this influenced the subsequent expression of support”¹¹. The RCP’s concerns suggest that the VoC may have benefited from hearing multiple perspectives to inform its deliberations. The Better Resets Handbook anticipates making independent, expert advice available to consumers, and the CCP26 encourages network businesses to embrace this approach, including using a diversity of expert views, where appropriate, in their engagement activities. Ultimately, the Heat Resilience project received support from the VoC panel, but the RCP expresses support for a more modest program¹². Ausgrid identifies a range of considerations that remain to be worked through in its Heat Resilience project¹³.

The feedback provided by participants at the concluding VoC session demonstrates they felt the engagement was genuine and impactful.¹⁴

Local Government Area (LGA) Resilience Engagement

In mid-October, Ausgrid held the fourth and final series of workshops with participants in each of the three LGAs. These sessions were structured with a limited remit to “inform” participants of the AER’s Draft Decision, rather than to invite them to help further shape Ausgrid’s Revised Proposal.¹⁵ The RCP has provided a series of reflections on this engagement¹⁶ which demonstrate the challenges Ausgrid

¹⁰ SEC Newgate, Endeavour Energy Customer Panel – Revenue Proposal 2024-2029 Final Report Wave 4, June 2023, p4

¹¹ RCP Independent Report to Ausgrid Revised Proposal, p9

¹² RCP Independent Report to Ausgrid Revised Proposal, p26

¹³ Ausgrid Revised Proposal, Climate Resilience Business Case, p59

¹⁴ Mosaic Lab Report, p50-52

¹⁵ RCP Independent report to Ausgrid Revised Proposal, p6

¹⁶ see p6-7 RCP Independent Report to Ausgrid Revised Proposal

faced in communicating the AER's Draft Decision not to approve most of the proposed resilience expenditure, as well as the constrained timeframe for engagement following the Draft Decision.

While there were mixed responses to the Draft Decision, we note that the BD Infrastructure Report, Ausgrid's Revised Proposal, the RCP Report and the CCP26's own observations identify that LGA (and VoC) participants were frustrated with the AER's Draft Decision and frustrated that they didn't hear directly from the AER about the reasons for their Draft Decision. They also expressed confusion about the role of community engagement in the AER's decision-making process. Despite messages from Ausgrid that the community might not get what they want, there was an expectation among many participants that if meaningful engagement had occurred then the AER should act on what the community wants. The CCP26 offers the following insights:

- During Ausgrid's earlier LGA engagement, participants were asked to express preferences on specific technical solutions that, in some cases, had not been fully scoped or efficiently costed or had not been subject to sufficient scrutiny about eligibility under regulatory guidelines. We consider that Ausgrid's incomplete analysis of resilience solutions prior to community engagement contributed to participants' frustration with the AER's Draft Decision.
- The engagement expectations of the Better Reset Handbook have brought a wider set of stakeholders deeper into the regulatory process, which is a welcome development. It would be useful for the AER to produce a short, shareable video about the AER's regulatory process and the role of engagement in it, which is easily accessible to a lay audience. It is important that customers can freely provide their views without being experts in regulatory economics. We also encourage network businesses to consider how this message is affirmed throughout their engagement activities.
- The publication of the AER's Draft Decision, its Public Forum and public submission process are vital transparency and accountability measures in the AER's regulatory decision-making. However, we suggest that the AER's public consultation processes would benefit from an update to reflect the evolving nature of network engagement activities. For example, the AER could publish short shareable videos that provide accessible public information about its Draft Decisions as well as publishing recordings of the Public Forum presentations.
- Ausgrid initially struggled to provide a balanced view of the Draft Decision to participants. The Better Resets Handbook is explicit that "networks must provide [consumers] with accurate and unbiased information necessary to meaningfully participate"¹⁷. In this instance, the RCP appears to have played an important role in alerting Ausgrid to its obligations and Ausgrid was able to quickly and successfully revise its approach. This highlights the value of embedding co-design into engagement, including reviewing and adapting engagement activities.

Pricing Working Group

The CCP observed a sample of Ausgrid's post-lodgement engagement with its Pricing Working Group (PWG). The Pricing Working Group is a standing group comprising a range customer and electricity industry advocates, as well as energy retailers and aggregators. We continued to observe strong collaboration between Ausgrid and the PWG as they responded to issues raised in the Draft Decision.

¹⁷ Better Resets Handbook, p13

Specifically, the PWG undertook robust consideration of the issues raised by the AER Draft Decision in relation to embedded network tariffs.

4. Commentary on selected consumer issues

Affordability measures

Ausgrid's customers consistently expressed concerns about electricity affordability but in the post-lodgement engagement the community's concerns about affordability became more pronounced. This was not unexpected in the current economic cycle and Ausgrid's engagement strategy anticipated a need to specifically re-test affordability concerns in light of this. Endeavour Energy also reported an elevated concern about cost-of-living pressures and a stronger focus on affordability in 2023¹⁸.

In its Initial Proposal, Ausgrid responded to customers' concerns about affordability by proposing a range of affordability measures, each of which directly reduced customers' bills. Many of these measures were accepted in the Draft Decision. In its Revised Proposal, Ausgrid has continued this approach with the following additional affordability measures:

- Treat a new substation build (\$128 million) at Macquarie Park, called the Wallumatta sub-transmission substation (STS), as a contingent project;
- Absorb cost increases of \$2.7 million related to guaranteed service level (GSL) payments, \$11.9 million related to the employment of more graduates and apprentices and \$1.7 million in components of the community resilience program;
- Treat SaaS implementation costs as capex in the 2024-29 period.¹⁹

Contingent projects are an important tool to address known investment uncertainty. It may be appropriate to treat Wallumatta STS as a contingent project. We do not consider that the treatment of this project as a contingent project represents a bill saving for customers. Ausgrid has not provided meaningful grounds to explain why its decision to treat the Wallumatta STS as a contingent project should be included in its package of affordability measures.

During this round of resets, a number of networks have responded to customers' affordability concerns by absorbing costs that would otherwise be incurred by customers. Ausgrid appears to have genuinely committed to absorbing some costs in its Revised Proposal. However, we are concerned that some of the absorbed costs claimed by Ausgrid as affordability measures, such as components of its resilience program, may be unlikely to meet regulatory requirements and therefore should not be considered as bill savings for customers.

The most material additional affordability measure proposed by Ausgrid is the treatment of its SaaS expenditure as capex, rather than opex. Ausgrid's Initial Proposal was clear that it intended to follow accounting guidance and treat SaaS as opex in the regulatory period. The relatively late change in the regulatory treatment of SaaS expenditure means that this proposal has not received deep scrutiny.

We have not been able to access sufficient information to provide an informed view on whether treating SaaS as capex is in the long-term interests of consumers. Further analysis is required to determine whether benefits to customers of adopting this approach (such as lower bills in the regulatory period) outweigh the costs to customers (such as increased overall costs to customers,

¹⁸ SEC Newgate, Endeavour Energy Customer Panel – Revenue Proposal 2024-2029 Final Report Wave 4, June 2023, p4

¹⁹ Ausgrid Revised Proposal, p27 & p40

potentially reduced affordability in subsequent regulatory periods and potentially reduced comparability if non-standardised approaches are adopted across DNSPs). We are aware that, while easing affordability in the regulatory period, this proposal has the potential to add to affordability pressures in future regulatory periods. This is a challenging trade-off given the escalating long-term forecasts for electricity prices.

The Draft Decision accepted Ausgrid's initial proposed affordability measures, which, together, reduce average household network charges by \$34 by the end of the regulatory period²⁰. Ausgrid states that the Revised Proposal's additional affordability measures, if accepted by the AER, add a further \$14 in bill reductions.²¹ However, the CCP26 suggests this figure may need to be adjusted to account for the issues raised above. The Revised Proposal also states that the bill impacts from factors within Ausgrid's control have reduced from +\$37 in the Initial Proposal to +\$25 in the Revised Proposal (while bill impacts from factors outside Ausgrid's control increased from +\$139 to +\$241). These figures highlight the rapidly escalation in electricity prices and the role played by Ausgrid's affordability measures in partially offsetting price increases.

Climate Resilience Program

Ausgrid's Revised Proposal states:

Our consideration of targeted climate resilience investment responds to the expectations and priorities of our customers. Customers have remained overwhelmingly supportive of climate resilience investments throughout our engagement process, even as cost of living pressures have increased. Our customers have told us they expect Ausgrid to respond to the emerging risks of climate change and have urged us to act now for our most vulnerable communities and customers.²²

Ausgrid has proposed a revised Climate Resilience Program of \$119.58 million (\$113.73 million capex; \$5.85 million opex) in response to the Draft Decision placeholder approval of \$25.7 million. Ausgrid's VOC and resilience engagement has demonstrated a clear community desire to respond to the emerging risks of climate change. The Draft Decision accepted that a clear picture of community preferences had emerged from Ausgrid's engagement but found that questions remained about the prudence and efficiency of proposed resilience investments.

The CCP26's previous advice on Ausgrid's Revised Resilience Business Case provided our evaluation of the engagement that informed Ausgrid's August Resilience Business Case. In that advice, we noted the rich insights arising from genuine local engagement. However, we also raised a number of concerns about factors that influenced the engagement outcomes, including:

- The significant over-representation of people with lived experience of extreme weather events in the LGA engagement.
- The lack of the right, and sufficient, information to participants about proposed resilience solutions, including details of the planned activity and the specific customer resilience outcomes associated with each proposed solution.
- The relatively late introduction of the concept of the 'risk of paying twice', as well as the adequacy of the traffic light rating to communicate the weather-related risks (including the uncertainty in potential costs and benefits) of ex-ante network resilience investment.

²⁰ Ausgrid Initial Proposal, Figure 1.3.1, p12

²¹ Ausgrid Revised Proposal, Figure 2.2, p13

²² Ausgrid Revised Proposal, Attachment 6.1 Proposed Operational Expenditure, p26

- The appearance that other resilience actors were not involved in the development of the proposed resilience expenditure.

These concerns continue to shape the CCP26's evaluation of Ausgrid's Revised Proposal. In our view, as the AER considers the evidence presented in support of Ausgrid's resilience program, the weight given to community preferences should be tempered to account for these factors.

The CCP26 advice also noted that if Ausgrid's resilience models materially changed, the validity of the engagement outcomes could be called into question. The CCP26 has not had visibility over the work that has been undertaken to improve the models underpinning Ausgrid's climate resilience program. We have not been able to confirm whether the information presented to participants in the LGA workshops remains accurate.

Community Resilience

Community resilience is an important aspect of critical infrastructure resilience. Ausgrid's Community Resilience Project attempts to respond to the preferences of local communities to help them prepare for and respond to extreme-weather related electricity outages. Despite reflecting a relatively modest expenditure proposal (\$3.15 million opex; \$0.21 million capex), community resilience is a new area of proposed DNSP expenditure that we consider warrants close scrutiny and we offer the following insights.

The CCP26 is concerned that the Revised Proposal does not sufficiently explain how the Community Resilience Project fits within the role and obligations of a distribution network service provider, how it is integrated with the roles and responsibilities of other disaster preparedness/relief agencies or the efficacy of the proposed measures. The AER's Draft Decision for Essential Energy stated that providing backup generation 'behind the meter' is not considered a distribution service and raises competition concerns. Ausgrid's Revised Proposal does not address these issues despite seeking funding for 20 mobile generators. Ausgrid is proposing to undertake a broad awareness campaign (with associated advertising and media buy) but hasn't explained how these activities will sit alongside other agencies who share these responsibilities or the outcomes that these activities will deliver. The absence of this information raises a range of financial, social and operational risks.

We also note that the Investment Case for the Community Resilience Project states that "under the Base Case there is no investment in community resilience"²³. This statement is at odds with the message that the community received during the LGA Engagement, when they were assured that there were a range of community resilience activities that would be ongoing including information and alerts on unplanned outages and emergency responses to weather events.

Innovation funding

Ausgrid has re-proposed its \$45 million innovation fund with a new 10% non-customer contribution. We note that Endeavour Energy, by contrast, proposes to absorb the cost of its proposed \$5 million innovation fund through offsetting efficiencies. There was consistently strong community support for innovation throughout Ausgrid's engagement activities. The community appears to strongly link the transition to net-zero with DNSP's testing and trialling new technologies. The Public Interest Advocacy Centre has also raised concerns about discrete innovation funding, observing:

²³ Ausgrid Revised Proposal, Climate Resilience Business Case, p66

While we can see the merit in investigating and trialling emerging technologies and network solutions, we question the extent to which activities falling under the broad umbrella of ‘innovation’ are already funded through regulatory allowances or other incentive mechanisms.²⁴

The RCP has suggested that further regulatory guidance on innovation is needed. Given the widespread community support for funding innovation, and the growing materiality of the size of these funds, we agree that further guidance would be of use.

5. NSW/ACT systemic observations

The importance of ongoing engagement

The Better Resets Handbook notes the importance of ongoing engagement, stating:

...consumer engagement should be a continuous business-as-usual process, not a one-off process only undertaken in preparing for regulatory proposals. Consumers should not have to wait for a once-in-5-year regulatory proposal to be heard.

The NSW/ACT resets have highlighted the particular importance of ongoing engagement in a period of rapid economic, political and environmental change. Endeavour Energy explains:

As part of good practice engagement we also see value in continuously engagement with our customer to understand their preferences and values. Doing so over time provides additional insight in surfacing preferences that are subject to change compared to those that remain constant in a changing environment.²⁵

Ongoing engagement is likely to deliver considerable benefits to the AER’s regulatory processes. As well as the benefits of longitudinal customer insights, ongoing engagement is also likely to reduce the volume of bespoke reset-related engagement activities that are needed to adequately inform regulatory proposals. To further embed ongoing engagement in the whole regulatory cycle, the CCP26 recommends the AER adds an additional criterion to access the Early Signals Pathway process requiring evidence of a robust, transparent and co-designed ongoing engagement program that will inform the regulatory proposal.

Network Resilience Guidance Note

The AER’s *Network Resilience Guidance Note* has provided useful guidance for the CCP to assess the NSW/ACT DNSPs’ resilience engagement. The priority given to the following areas in the Guidance Note has proven particularly valuable: the central focus on decision-making under uncertain extreme weather events (particularly high cost/low probability events); the need to collaborate with other responsible entities involved in disaster management; and the need to work collaboratively with affected communities as well as the wider customer base. The Guidance Note also clearly links engagement expectations to the Better Resets Handbook.

However, we continue to observe confusion about the term “Network Resilience” and the concept of remains poorly understood and insufficiently defined. This was exacerbated in the NSW/ACT Draft

²⁴ PIAC Submission to Issues Paper 2024-29 Revenue Determinations: Ausgrid, Endeavour, and Essential Energy, 1 June 2023, p 11

²⁵ Endeavour Energy, Revised Proposal, p24

Decisions which, in a number of cases, saw the AER approve certain resilience expenditure because it met reliability criteria. We suggest that the AER consider adopting more specific language such as “Climate Adaptation” to better capture the AER’s regulatory intent.

Review Better Resets Handbook

The NSW and ACT electricity distribution regulatory proposals were the first developed in full, using the Better Resets Handbook as a basis. There were also two of the four businesses that were accepted onto the Early Signals Pathway (ESP) process, Endeavour Energy and Essential Energy, the first businesses to apply this process. Our observation is that the Handbook has provided a useful guide and that the ESP process has been beneficial for the participating businesses.

Review of both the application of the Handbook and early Signal Pathways will be important and should occur in the near future so that initial learnings are captured. One clear benefit of the Early Signal Pathway has been for open discussion between the AER, Businesses and their consumer reference groups and the CCP subpanel, well before the lodgement of regulatory proposals through “progress reports” and associated “check-ins.” With engagement programs commencing two or more years before lodgement, CCP26 recommends that “check-ins” similar to those occurring effectively through the Early Signal Pathway process should now be part of all resets.

Flexibility in regulatory process

Uncertainty has been a dominant theme in the regulatory proposals and revised proposals for the NSW and ACT electricity distribution network businesses for this reset. The dual impacts of the unfolding once-in-a-generation energy transition, and growing evidence of impacts of accelerated climate change on electricity network infrastructure exacerbate the business-as-usual challenge of preparing detailed business plans 6 or 7 years into the future. Network businesses are facing risks associated with issues such as:

- the inability to forecast with confidence the rate of take up of consumer energy resources including electric vehicles to 2030 and beyond and the implications for electricity demand and network services,
- the nature and impact of government interventions in energy markets and environmental legislative approaches,
- climate change resulting in more frequent and different threats to network resilience and reliability.

Examples of network business’s proposed regulatory responses to these changing and unpredictable circumstances include:

- Evoenergy contemplating a contingent project (\$100–150 million) ‘that would be triggered where evidence emerges that the speed of the energy transition, in particular the uptake of EVs and electrification, is greater than assumed in the capex forecasts put forward in this regulatory proposal, where this consequently requires us to undertake a material program of works during the regulatory period’.²⁶
- Essential Energy proposing an untested new cost pass-through event to accommodate as-yet unquantified outcomes arising from a Coronial inquiry into bushfires in NSW²⁷.

²⁶ Evoenergy, Evoenergy Regulatory Proposal, January 2023, p56

²⁷ Essential Energy, *6.04 Nominated Pass-Through Event*, November 2023, p. 3

Essential Energy has further expanded on the uncertainty challenges facing network businesses in its Revised Proposal²⁸, and concludes that *“Essential Energy believes that the current regulatory framework is not agile or flexible enough to effectively meet these challenges. The current framework of five-yearly resets, and over-reliance on prescribed pass through events, is overly cumbersome and not nimble enough to keep up with climate and technological changes and shifting customer and stakeholder expectations”*.

It is not only the network businesses that are expressing such views. Customer and stakeholder groups have made similar observations, noting the risk that uncertainty poses for customers as well as network businesses:

- The Ausgrid Reset Customer Panel (RCP) makes similar observations in its discussion on ‘Re-openers’. The RCP states *‘we believe that there is a limited but important case for ‘re-openers’ in key areas within the current 5 year regulatory cycles over and above the operation of the cost pass through regime.’*²⁹
- In its Panel Report supporting Evoenergy’s Revised Proposal, the Evoenergy Deep Dive Panel commented *‘The current regulatory cycle (5 years) seems too long given the fast pace of change in energy. Suggest shorter regulatory timeframes or midpoint reviews to adjust spending and investment and to respond to emerging technologies and risks such as changing consumer behaviour’*³⁰

CCP26 hold similar views to those expressed above. Given the consistency of advice from a breadth of sources, we consider that the AER should commit to examining opportunities for greater regulatory flexibility in this time of uncertainty as a matter of priority.

²⁸ Essential Energy, 2024-29 Revised Regulatory Proposal, November 2023, p32

²⁹ Ausgrid Reset Customer Panel, *RCP Report on Ausgrid Revised Proposal*, November 2023 p52

³⁰ Communications Link, *Evoenergy Deep Dive Panel Report*, November 2023, p3

Appendix 1 – CCP26 observation of Ausgrid’s Revised Proposal engagement journey³¹

| Ausgrid Engagement activity | Date (all 2023) | Format | CCP observer |
|---|-----------------|-----------|--------------------------|
| LGA workshop 1 – Lake Macquarie | 25 February | In person | - |
| LGA workshop 1 – Port Stephens | 5 March | In person | - |
| LGA workshop 1 – Central Coast | 4 March | In person | Elissa Freeman |
| LGA workshop 2 – Port Stephens | 23 March | Online | Robyn Robinson |
| LGA workshop 2 – Central Coast | 29 March | Online | Elissa Freeman |
| LGA workshop 2 – Lake Macquarie | 30 March | Online | Mark Henley |
| LGA workshop 3 – Port Stephens | 20 May | In person | Robyn Robinson |
| LGA workshop 3 – Central Coast | 27 May | In person | Elissa Freeman |
| LGA workshop 3 – Lake Macquarie | 28 May | In person | - |
| LGA workshop 4 – Port Stephens | 10 October | Online | Robyn Robinson |
| LGA workshop 4 – Central Coast | 11 October | Online | Elissa Freeman |
| LGA workshop 4 – Lake Macquarie | 12 October | Online | Mark Henley |
| VoC - Meet & Greet | 22 March | Online | - |
| VoC Day 1 – Hunter Valley + Central Coast | 1 April | In person | Elissa Freeman |
| VoC Day 1 – Sydney | 29 April | In person | Elissa Freeman |
| VoC Day 2 – Hunter Valley + Central Coast | 17 June | In person | - |
| VoC Day 2 – Sydney | 24 June | In person | Mark Henley |
| VoC Panel – CSIS | 1 August | - | - |
| VoC Panel – Draft Decision & Response | 21 October | Online | Elissa Freeman |
| RCP | 31 March | - | - |
| RCP | 5 May | - | - |
| RCP | 2 June | - | - |
| RCP | 30 June | - | - |
| RCP | 10 August | - | - |
| RCP | 12 October | - | - |
| RCP | 27 October | Online | Elissa Freeman (partial) |
| RCP | 10 November | Online | Elissa Freeman |
| RCP ³² | 28 November | Online | Elissa Freeman |
| Pricing Working Group | 7 July | Online | Robyn Robinson |
| Pricing Working Group | 6 October | Online | Robyn Robinson |

³¹ See Revised Proposal, p17

³² We note that the CCC was invited to attend this meeting.